

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DELANO TOLDEN,

No. C 08-03782 CW (PR)

Petitioner,

ORDER DIRECTING RESPONDENT TO
SHOW CAUSE WHY THE PETITION
SHOULD NOT BE GRANTED

v.

JAMES E. TILTON, Director,
Department of Corrections,

Respondent.

Petitioner, a state prisoner, has filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. It does not appear from the face of the petition that it is without merit. Good cause appearing, the Court hereby issues the following orders:

1. The Clerk of the Court shall serve a copy of this Order and the petition and all attachments thereto upon Respondent and Respondent's attorney, the Attorney General of the State of California. The Clerk shall also serve a copy of this Order on Petitioner's attorney.

2. Respondent shall file with this Court and serve upon Petitioner, within sixty (60) days of the issuance of this Order, an Answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent shall file with the Answer a copy of all portions of the relevant state records that have been transcribed previously and that are relevant to a determination of the issues presented by the petition.

3. If Petitioner wishes to respond to the Answer, he shall do so by filing a Traverse with the Court and serving it on Respondent within sixty (60) days of his receipt of the Answer. Should Petitioner fail to do so, the petition will be deemed

1 submitted and ready for decision sixty (60) days after the date
2 Petitioner is served with Respondent's Answer.

3 4. Respondent may file a motion to dismiss on procedural
4 grounds in lieu of an Answer, as set forth in the Advisory
5 Committee Notes to Rule 4 of the Rules Governing Section 2254
6 Cases. If Respondent files such a motion, Petitioner shall file
7 with the Court and serve on Respondent an opposition or statement
8 of non-opposition to the motion within thirty (30) days of receipt
9 of the motion, and Respondent shall file with the Court and serve
10 on Petitioner a reply within fifteen (15) days of receipt of any
11 opposition.

12 5. Extensions of time are not favored, though reasonable
13 extensions will be granted. Any motion for an extension of time
14 must be filed no later than ten (10) days prior to the deadline
15 sought to be extended.

16 IT IS SO ORDERED.

17 Dated: 8/28/08



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

DELANO TOLDEN,

Plaintiff,

v.

JAMES E. TILTON et al,

Defendant.

Case Number: CV08-03782 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 28, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

James E. Tilton, Director
CA Department of Corrections
1515 S Street
Sacramento, CA 95814

Attorney General
State of California
455 Golden Gate Avenue, #11000
San Francisco, CA 94102

Dated: August 28, 2008

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk

United States District Court
For the Northern District of California